

TO:  <p style="text-align: center;"><b>Commissioner of Trademarks P.O. Box 1451 Alexandria, VA 22313-1451</b></p>	<b>REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK</b>
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court Colorado on the following Trademarks

DOCKET NO. <b>11-cv-00843</b>	DATE FILED <b>4/1/11</b>	U.S. DISTRICT COURT <b>FOR THE DISTRICT OF COLORADO</b>
PLAINTIFF Alpine Banks of Colorado		DEFENDANT Alpine Dank LLC et al.
PATENT OR	DATE OF PATENT	HOLDER OF PATENT OR TRADEMARK
1 1,542,864		Please see copy of Complaint attached hereto
2 1,522,079		
3 2,600,606		
4 2,600,605		
5 2,712,626		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1 3,055,289			
2 3,119,601			
3 3,484,810			
4 3,600,263			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK <b>GREGORY C. LANGHAM</b>	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Commissioner    Copy 3—Upon termination of action, mail this copy to  
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner    Copy 4—Case file copy

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. \_\_\_\_\_

ALPINE BANKS OF COLORADO,  
a Colorado corporation,

Plaintiff,

v.

ALPINE DANK LLC, a Colorado limited liability company;  
ALPINE DANK EDIBLES LLC, a Colorado limited liability company; and  
JEFFERY LESSARD, an individual,

Defendants.

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**COMPLAINT**

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Alpine Banks of Colorado ("Alpine Banks"), for its Complaint against Defendants Alpine Dank LLC ("AD"), Alpine Dank Edibles LLC ("ADE") and Jeffery Lessard ("Lessard") (collectively, "Defendants"), alleges as follows:

**I. THE PARTIES**

1. Alpine Banks is a Colorado corporation, having a principal place of business at 2200 Grand Avenue, Glenwood Springs, Colorado 81602.
2. Upon information and belief, AD is a Colorado limited liability company, having a principal place of business at 104 Swinging Bridge Lane, Basalt, Colorado 81621.

3. Upon information and belief, ADE is a Colorado limited liability company, having a principal place of business at 300 West Colorado Avenue, Unit 2C-G, P.O. Box 2258, Telluride, Colorado 81435.

4. Upon information and belief, Lessard is a Colorado resident having a physical address of 104 Swinging Bridge Lane, Basalt, Colorado, 81621, and a mailing address of P.O. Box 2258, Telluride, Colorado 81435. Upon information and belief, Lessard is the Registered Agent of AD.

## **II. JURISDICTION AND VENUE**

5. This action arises under §§ 32 and 43 of the Lanham Act, 15 U.S.C. §§ 1114 and 1125. This Court's jurisdiction is invoked pursuant to 15 U.S.C. §1121(a), 28 U.S.C. § 1331 and 1338(a), in that this civil action arises under the laws of the United States, and particularly the Lanham Act, 15 U.S.C. §§ 1114 and 1125. In the case of the claims for relief arising under state law, this Court's jurisdiction is invoked pursuant to 28 U.S.C. §§ 1338(b) and 1367 and the doctrine of supplemental jurisdiction in that the claims are substantial and related to the trademark claims and form part of the same case and controversy.

6. Venue is proper in this United States District Court for the District of Colorado pursuant to 28 U.S.C. § 1391(b) in that a substantial part of the events giving rise to the claims occurred within the District, and Defendants were and are subject to personal jurisdiction in the District at the time the action was commenced.

### **III. GENERAL ALLEGATIONS**

#### **Alpine Banks' Trademark Rights**

7. Alpine Banks is the owner and operator of the banking institution widely known as Alpine Bank, which offers personal and business banking services throughout 37 locations in Colorado, including Telluride, Ridgway, Ouray, Montrose and Durango, and online through its banking web portals.

8. Alpine Banks has used the trademark ALPINE BANK in association with banking products and services continuously since at least 1983.

9. Alpine Banks owns U.S. Registration No. 1,542,864 for the mark ALPINE BANK, for banking services, in use since at least as early as January 1, 1983. A copy of the registration is attached as Exhibit A and incorporated by reference herein.

10. Alpine Banks also owns U.S. Registration No. 1,522,079 covering its distinctive circular logo of a pine tree for banking services. Alpine Banks has continuously used this logo since at least January 1, 1983. A copy of the registration is attached as Exhibit B and incorporated by reference herein.

11. Over the approximate three decades it has been operating under the mark and name ALPINE BANK, Alpine Banks has introduced a number of different products and services in association with the mark ALPINE. As a result of its continuous use of these marks, Alpine Banks has obtained and owns the following U.S. trademark registrations (collectively referred to as "ALPINE Family of Marks"):

- ALPINE ACCESS, U.S. Registration No. 2,600,606, for financial services, in use since at least July 1992;

- ALPINE PAYMENT EXPRESS, U.S. Registration No. 2,600,605, for on-line financial services, in use since at least April 1998;
- ALPINE ONLINE, U.S. Registration No. 2,712,626, for on-line financial services, in use since at least April 1998;
- ALPINE ANYTIME, U.S. Registration No. 3,055,289, for financial services, in use since at least as early as April 7, 2004;
- ALPINE E-LINE, U.S. Registration No. 3,119,601, for on-line newsletters, in use since July 1, 2004;
- ALPINEREMOTE, U.S. Registration No. 3,484,010, for on-line banking service, in use since at least November 2007;
- ALPINEDIRECT, U.S. Registration No. 3,600,263, for financial services, in use since at least December 2008.

Copies of these Registrations are attached as Exhibit C and incorporated by reference herein.

12. In addition to being a well-known, respected banking institution, for almost three decades, Alpine Banks has been a proud supporter of a broad range of community and philanthropic activities. Hundreds of organizations and thousands of individuals have benefited from the community investment of Alpine Banks. Community events, the arts, animal shelters, sports and recreation, and particularly children and education, have been the focus of Alpine Banks' community support. Support to organizations and individuals is initiated in various forms including momentary gifts by Alpine Banks, volunteer work performed by employees of Alpine Banks and promotional support for events, activities, organizations and individuals provided by Alpine Banks. Financially, Alpine Banks has contributed over \$9 million dollars to nonprofit

organizations and projects since 1998. Every Alpine Banks officer and nearly every employee also devotes volunteer time and talent to these organizations in their community with over 8,000 volunteer hours recorded over the last 3 years. Local groups are also provided with promotional support via donated radio advertising, testimonial partnerships, campaign support, and ALPINE BANK publications such as the annual calendar, Community News, ALPINE Fax and ALPINE e-Line, and anniversary books. A listing of community organizations that have received direct financial support from Alpine Banks is attached as Exhibit D and incorporated by reference herein.

13. Alpine Banks is a community leader, as it provides incentive programs for educational, scholarship and environmental management programs. Through its loyalty card program, Alpine Banks enables customers to donate to charities each time they use their chosen loyalty card. Customers may choose from: education, environment, community, arts, Colorado Mountain College, and Americas. Each time a customer uses their loyalty card, Alpine Banks donates to local organizations in the customer's community. Alpine Banks has contributed over \$3 million to local nonprofits since the inception of the card program. An exemplary listing of community organizations that have received support through Alpine Banks' loyalty program is attached as Exhibit E and incorporated by reference herein.

14. In commemoration of its twenty-fifth (25th) anniversary, Alpine Banks created a special anniversary logo which comprises its alpine tree logo surrounded by the mark ALPINE BANK on the top and the phrase "25 years with you" on the bottom, together with the founding year 1973 and the anniversary year 1998, in a circular presentation. This commemorative logo was featured in all of Alpine Banks' marketing during the year 1998, and was reintroduced and

prominently used on the occasion of its thirtieth (30th) anniversary (2003) and its thirty-fifth (35th) anniversary (2008). Copies of these three circular commemorative logos are attached as Exhibit F and incorporated by reference herein.

15. The mark ALPINE BANK has become famous under § 1125(c) of the Lanham Act by reason of its continuous use for nearly 30 years in association with not only the distribution and providing of quality banking and financial products and services, but also due to the substantial community involvement and support provided by Alpine Banks and its employees over the same time period.

16. Through widespread and favorable public acceptance and recognition, ALPINE BANK has become a distinctive mark and asset of substantial value to Alpine Banks as a symbol of its goods, services and community goodwill. Alpine Banks has expended significant money, time and effort in advertising and promoting its products and services offered in connection with the mark ALPINE BANK, as well as the ALPINE Family of Marks and in supporting community and philanthropic activities. By virtue of such efforts, the mark ALPINE BANK has become associated in the minds of the general public with Alpine Banks and an extensive and valuable goodwill has been built up in the mark.

17. For the same reasons, including longstanding continuous use, advertising and promotion of goods and services, and extensive community support and involvement, in association with the mark ALPINE BANK and the ALPINE Family of Marks, and the public acceptance and awareness of the mark ALPINE BANK and the ALPINE Family of Marks, the mark ALPINE BANK has acquired a distinctiveness and secondary meaning, signifying Alpine Banks and its respective goods and services.

**Defendants' Activities**

18. Upon information and belief, AD and ADE are limited liability companies established and controlled by Lessard for purposes of promoting and selling marijuana and marijuana-related products in Telluride, Colorado and surrounding areas. Defendants have purposefully selected and are using the name ALPINE DANK in connection with these activities. Defendants have also adopted and are using a circular logo depicting a marijuana leaf as part of these activities. A copy of the ALPINE DANK name and logo adopted and used by Defendants is attached at Exhibit G and incorporated by reference herein. Lessard has sought registration from the Colorado Secretary of State for the trade names ALPINE DANK, ALPINE DANK SEED COMPANY and ALPINE DANK EDIBLES. A copy of the Colorado Secretary of State records for these trade name registrations is attached as Exhibit H and incorporated by reference herein. Lessard is also using the name ALPINE DANK and the circular logo in connection with the domain name [www.alpinedank.com](http://www.alpinedank.com), which is a website designed to promote the activities of AD and ADE, including the promotion and sale of marijuana-related products. A copy of the main page of this website is attached at Exhibit I and incorporated by reference herein.

19. Defendants' use of the name ALPINE DANK is confusingly similar to the ALPINE BANK mark in terms of appearance, sound and meaning. The name ALPINE DANK is identical to the mark ALPINE BANK, with the exception of the first letter of the second word. Defendants have not only chosen and adopted a name virtually identical to that of a long-standing and well-respected business in the same community, they have also adopted the same font and circular logo format as used by Alpine Banks in connection with its ALPINE BANK



and ALPINE Family of Marks and its commemorative anniversary logos. The ALPINE BANK, Alpine Banks' circular tree logo and commemorative anniversary logo, together with the ALPINE DANK logo, are reproduced below:

**Alpine Bank**



Upon information and belief, Defendants' selection and adoption of the name ALPINE DANK, the circular logo depiction of a marijuana leaf and the font used for the name was calculated purposefully to usurp the goodwill and reputation that Alpine Banks has labored to develop, nurture and protect for nearly thirty years.

20. Alpine Banks' rights in and to the mark ALPINE BANK is superior to Defendants' rights in the name utilized by the Defendants by virtue of Alpine Banks' long-standing and continuous prior use and the fact of Alpine Banks' federal registrations of the mark ALPINE BANK, the circular logo depicting a pine tree and the ALPINE Family of Marks.

21. On February 25, 2011, counsel for Alpine Banks sent Lessard a letter informing Lessard of the rights of Alpine Banks and demanding that Defendants stop use of the name

ALPINE DANK in association with company names, domain names and products offered for sale by Defendants. A copy of the February 25, 2011 letter is attached as Exhibit J and incorporated by reference herein.

22. On March 8, 2011, Lessard responded. Lessard defends his selection of the name ALPINE DANK and its near identity to the mark ALPINE BANK as a mere coincidence. However, Lessard's letter is telling silent with respect to how Defendants' selection and use of the identical font and logo style as that used by Alpine Banks was also coincidental. Lessard did concede that Defendants would change the font and logo design. In addition, Lessard also offered to stop use of the name ALPINE DANK in exchange for a payment of \$1 million from Alpine Banks. A copy of Lessard's response is attached at Exhibit K and incorporated by reference herein.

23. By letter dated March 15, 2011, counsel for Alpine Banks responded to Lessard's March 8, 2011 letter, reiterating its position that Defendants stop all use of the name ALPINE DANK and further setting forth specific claims that Alpine Banks will pursue if Defendants fail to stop using the confusingly similar name ALPINE DANK and circular logo. Alpine Banks further pointed out that, in the week since Lessard authored his letter of March 8, 2011, Defendants had not changed the font nor removed the circular logo from the website as Lessard had represented. A copy of Alpine Banks' March 15, 2011 letter is attached as Exhibit L and incorporated by reference herein.

24. By letter dated March 18, 2011, Lessard stated that he had removed the circle logo from his website. As of the filing of this Complaint, the circle logo has not been removed from the website [www.alpinedank.com](http://www.alpinedank.com). See Exhibit I. Lessard otherwise refused to stop use of

the name ALPINE DANK but did reiterate Defendants' willingness to stop using the name for a payment of \$1 million. A copy of this letter is attached as Exhibit M and incorporated by reference herein.

25. Defendants' promotion and use of the mark ALPINE DANK and variations of it, including Defendants' circular logo, are likely to give rise to the mistaken belief that Defendants' goods are sponsored, endorsed or somehow affiliated with Alpine Banks and, in addition, that Alpine Banks has taken a stand and supports and/or plays a role in the current public policy debate relating to legalizing marijuana.

26. Upon information and belief, Defendants' goods, specifically marijuana and food stuffs containing marijuana, are distributed by Defendants and purchased by their customers in the State of Colorado under the position and/or belief that the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, et seq., legalized the sale of marijuana to qualifying Coloradans.

27. Since the passage of this law, a new industry consisting of creation and sale of "medical marijuana" in various forms has arisen in Colorado, which is sold at various store locations. Defendants' goods sold in Telluride, Colorado and promoted on the Internet are likely being encountered by some of the same customers of Alpine Banks' goods and services.

28. Upon information and belief, the United States Department of Justice has recently enunciated its position that it believes all marijuana dispensaries are illegal under federal law and that prosecution of individuals and organizations involved in the trade of any illegal drugs, including marijuana, is a core priority of the Department of Justice. Attached at Exhibit N is a copy of a letter dated February 1, 2011 from Melinda Haag, the United States Attorney for the Northern District of California, to John Russo, Oakland, California City Attorney, outlining the

position of the Department of Justice in clear and unequivocal terms that medical marijuana commercial activity is a violation of federal law, regardless of state laws permitting such activities.

29. In addition, upon information and belief, the United States Patent and Trademark Office has determined that, under federal law, it will not grant federal trademark registrations to any entity seeking registration of a trademark related to medical marijuana related goods and services, as these goods and services appear to be illegal or encompass illegal goods or services, citing the Controlled Substances Act (CSA), 21 U.S.C. § 801, et seq. Attached as Exhibit O and incorporated herein by reference, is an exemplary September 27, 2010 letter from a Staff Attorney for the Office of the Deputy Commissioner for Trademark Examination Policy to a Colorado Springs, Colorado trademark registration applicant, refusing the attempted registration of the trademark MAUI WAUI for medical marijuana-related goods on the grounds that the recited goods in the application are a controlled substance.

30. Upon information and belief, it is the position of two different departments of the United States Government that the promotion and sale of medical marijuana related products and services, which is the very nature of Defendants' activities in association with and under the name ALPINE DANK, is an illegal activity.

**IV. FIRST CLAIM FOR RELIEF**  
**(Unfair Competition Under 15 U.S.C. §1125(a),**  
**§ 43(a) of the Lanham Act)**

31. Alpine Banks incorporates paragraphs 1-30 above as though fully set forth herein.

32. Defendants offer and continue to offer in commerce goods and services under the name ALPINE DANK, alone and in combination with a circular logo of a marijuana leaf.

33. Defendants willfully selected and adopted the name ALPINE DANK, alone and in combination with a circular logo of a marijuana leaf, to trade on Alpine Banks' goodwill and reputation. Defendants' actions have created a likelihood of consumer confusion as to the affiliation, connection or association of themselves with Alpine Banks and as to the origin, sponsorship or approval of Defendants' goods and services with or by Alpine Banks.

34. Defendants' unauthorized use of the name ALPINE DANK, alone and in combination with a circular logo of a marijuana leaf, in connection with the marketing and provision of goods and services in commerce is a violation of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

35. Defendants continue to use the name ALPINE DANK with full knowledge of Alpine Banks' superior rights, but without its authorization. Defendants' tortious acts constitute willful and deliberate unfair competition under 15 U.S.C. § 1125(a) and are in willful and wanton disregard of Alpine Banks' established and superior rights.

36. As a result of Defendants' unlawful actions, Alpine Banks has suffered commercial harm.

37. Alpine Banks has been and continues to be harmed irreparably by Defendants' unlawful actions and Alpine Banks has no adequate remedy at law.

**V. SECOND CLAIM FOR RELIEF**  
**(Federal Dilution by Tarnishment Under 15 U.S.C. §1125(c),  
§ 43(c) of the Lanham Act)**

38. Alpine Banks incorporates paragraphs 1-37 above as though fully set forth herein.

39. Alpine Banks' ALPINE BANK trademark is famous and entitled to protection under 15 U.S.C. § 1125(c).

40. Defendants' commercial use of Alpine Banks' famous trademark began long after Alpine Banks' property became famous and causes and will continue to cause dilution of the distinctive quality of Alpine Banks' famous trademark.

41. Defendants continue to use Alpine Banks' famous trademark with knowledge of Alpine Banks' superior rights, but without Alpine Banks' authorization.

42. Defendants willfully intended to trade on Alpine Banks' goodwill and reputation and to cause dilution of Alpine Banks' famous trademark and otherwise acted in willful and wanton disregard of Alpine Banks' established and superior rights.

43. Defendants' unlawful actions constitute a violation of the Federal Trademark Dilution Statute, 15 U.S.C. § 1125(c).

44. Alpine Banks has been and will continue to be harmed irreparably by Defendants' unlawful actions and has no adequate remedy at law.

**VI. THIRD CLAIM FOR RELIEF**  
**(Trademark Infringement under 15 U.S.C. § 1114, § 32 of the Lanham Act)**

45. Alpine Banks incorporates paragraphs 1-44 above as though fully set forth herein.

46. Defendants' actions constitute infringement of at least Alpine Banks' U.S. Registration 1,542,864 and thus violate 15 U.S.C. § 1114.

47. Upon information and belief, Defendants adopted and continue to use the name ALPINE DANK with full knowledge of Alpine Banks' superior rights, but without its authorization.

48. Defendants' actions are likely to cause confusion with Alpine Banks' established and superior trademark rights under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

49. Defendants continue to use the name ALPINE DANK, alone and in combination with a circular logo of a marijuana leaf, with full knowledge of Alpine Banks' superior rights, but without its authorization. Defendants' tortious acts constitute willful and deliberate trademark infringement under 15 U.S.C. § 1114 and are in willful and wanton disregard of Alpine Banks' established and superior rights.

50. As a result of Defendants' unlawful actions, Alpine Banks has suffered commercial harm.

51. Alpine Banks has been and continues to be irreparably harmed by Defendants' unlawful actions and Alpine Banks has no adequate remedy at law.

**VII. FOURTH CLAIM FOR RELIEF**  
**(Unfair Competition under Colorado Common Law)**

52. Alpine Banks incorporates paragraphs 1-51 above as though fully set forth herein.

53. Defendants' actions as described above have caused and are likely to cause confusion with the established and superior rights of Alpine Banks and otherwise unfairly compete with Alpine Banks. As such, Defendants' actions constitute unfair competition under Colorado common law.

54. As a result of Defendants' wrongful actions, Alpine Banks has suffered commercial harm.

55. Defendants' wrongful actions were committed with willful and wanton disregard for Alpine Banks' superior rights.

56. Alpine Banks has been and continues to be harmed irreparably by Defendants' actions and has no adequate remedy at law.

**VIII. FIFTH CLAIM FOR RELIEF**  
**(Misappropriation of Business Values Under Colorado Common Law)**

57. Alpine Banks incorporates paragraphs 1-56 above as though fully set forth herein.

58. Alpine Banks has, through the expenditure of time, effort and money, acquired substantial business values in and to the mark ALPINE BANK, alone and in combination with a circular logo of a marijuana leaf, to the ALPINE Family of Marks, and to the goodwill and reputation associated with them. This name is a protectable business value of Alpine Banks.

59. Defendants have taken, without compensation to Alpine Banks, its protectable business values.

60. As a result of Defendants' unlawful actions, Alpine Banks has suffered commercial harm.

61. Defendants' wrongful actions were committed with willful and wanton disregard of the laws of the State of Colorado.

**IX. PRAYER FOR RELIEF**

WHEREFORE, Alpine Banks prays for judgment in its favor and against Defendants as follows:

A. That Defendants, their agents, servants, officers, directors, employees, attorneys, privies, representatives, successors, assigns and parent and subsidiary corporations or other related entities, and any and all persons in act of concert or participation with any of them, be preliminarily and permanently enjoined from:

1. Any further use of the mark or name ALPINE DANK or any other mark or business name or mark that is confusingly similar thereto;



2. Directly or indirectly using the mark or business name ALPINE DANK or any confusingly similar mark or material, either alone or in combination with other marks, symbols or trade dress;
3. Any further use of the term ALPINE DANK as part of any domain name;
4. Performing any action or using any name, mark, symbol, imagery or slogan which is likely to cause confusion, mistake or to deceive or otherwise mislead the trade and/or public into believing that Alpine Banks and Defendants are one and the same or in some way connected, or that Alpine Banks is the sponsor of Defendants or that Defendants are in some manner affiliated or associated with or under the supervision or control of Alpine Banks, or that Defendants' services originate with Alpine Banks or are connected or offered with the approval, consent, authorization or under the supervision of Alpine Banks;
5. Marketing or selling any service or material containing or utilizing Alpine Banks' intellectual property or;
6. Any other conduct constituting unfair competition, trademark infringement, dilution or misrepresentation of Alpine Banks' property;

B. That Defendants be ordered to deliver up to Alpine Banks for destruction or certify destruction of all materials that contain the ALPINE DANK name;

C. That Defendants be ordered to file with the Court and serve on Alpine Banks within thirty (30) days of entry of an injunction a report in writing, under oath, setting forth the detail, manner and form in which Defendants have complied with any ordered injunction;

- D. That Alpine Banks be awarded damages in an amount to be determined at trial;
- E. That Alpine Banks be awarded treble actual damages;
- F. That Alpine Banks be awarded pre-judgment and post-judgment interest;
- G. That Alpine Banks be awarded costs and expenses incurred in prosecuting this action, including expert witness fees and attorney's fees under relevant law; and
- H. That such other and further preliminary and permanent relief be awarded to Alpine Banks as the Court deems appropriate.

Respectfully submitted,

DATED: April 1, 2011.

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